THE BOMBAY PUBLIC TRUSTS REGISTRATION ACT, 1935.

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BOMBAY ACT No. XXV OF 1935.[1]

[THE BOMBAY PUBLIC TRUSTS REGISTRATION ACT, 1935.]

[*19th November 1935.*]

Amended by Bom. 24 of 1936.
Adapted and modified by the Adaptation of Indian Laws Order in Council.
Amended by Bom. 10 of 1944*.
" " " 17 of 1945†.
" " " 65 of 1948.

An Act for the registration of trusts created or existing for a public purpose of a religious or charitable nature and for the audit and filing of accounts of such trusts with a view to ensuring the better management thereof.

WHEREAS it is expedient to provide for the registration of trusts created or existing for a public purpose of a religious or charitable nature and for the audit and filing of accounts of such trusts with a view to ensuring the better management thereof; And whereas the previous sanction of the Governor General required under sub-section (*3*) of section 80-A and of the Governor required under section 80-C of the Government of India Act have been obtained for the passing of this Act; It is hereby enacted as follows :—

5 & 6 Geo. V, c. 61.

1. (*1*) This Act may be called the Bombay Public Trusts Registration Act, 1935. Short title, extent and operation.

(*2*) It extends to the whole of the Presidency of Bombay.

(*3*) [2][The Provincial Government] may, by notification in the [3][*Official Gazette*], direct that this Act shall come into force on such date as may be appointed in the notification.

2. (*1*) The provisions of this Act shall in the first instance apply to public trusts created or existing solely for the benefit of the Hindu community or any section of such community and, having an annual gross income of not less than Rs. 1,000. Application and saving.

(*2*) Subject to the provisions of sub-section (*3*), [2][the Provincial Government], on a motion of [4][either or both of the Chambers of the Provincial Legislature] or otherwise, may, after previous publication by notification in the [3][*Official Gazette*], direct that all or any of the provisions of this Act shall apply to any other public trust or class of public trusts.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1935, Part V, pp. 130-134, for report of the Select Committee, *see ibid.*, pp. 225-236, 253-257, 261-262 and 306-309 and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1935, Vols. XLII and XLIII.

[2] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[4] The words "either or both of the Chambers of the Provincial Legislature" were substituted for the words "the Bombay Legislative Council", *ibid.*

*This Act was re-enacted by Bom. 25 of 1948, s. 3.

†This Act was repealed and re-enacted and the amendments made by section 9 and Schedule E of the said Act have been continued in force by Bom. 52 of 1947, s. 2.

(*3*) The provisions of this Act shall not apply to public trusts to which the Mussalman Wakf Act, 1923, applies [1][or which are administered by local authorities]. XLII of 1923.

Definitions.

3. In this Act unless there is anything repugnant in the subject or context—

(*1*) "Manager" means any person who for the time being either alone or in association with some other person or persons administers the property of any public trust.

(*2*) "Prescribed" means prescribed by rules made under this Act.

(*3*) "Public trust" means an express or constructive trust created or existing for public purposes of a religious or charitable nature.

(*4*) "Registrar" means an officer appointed under section 4 to exercise the powers and perform the duties of a Registrar of Public Trusts.

(*5*) "Rules" means rules made under section 27.

(*6*) Words or expressions used but not defined in this Act and defined in the Indian Trusts Act, 1882, shall have the meanings assigned to them in that Act. II of 1882.

Appointment of Registrars.

4. [2][The Provincial Government] may appoint officers belonging to the judicial service not below the rank of a subordinate Judge of the second class or a Judge of a Court of Small Causes as Registrars of Public Trusts for the purposes of this Act and may define the district or area within which each of them shall exercise his powers and perform his duties.

Obligation to furnish particulars relating to public trusts.

5. (*1*) Every manager of the property of a public trust shall, in the case of—

(*i*) a public trust created before the commencement of this Act, within twelve months of the commencement of this Act, and

(*ii*) a public trust created after the commencement of this Act, within twelve months of the vesting in or the assumption by him of the administration of the property of such trust,

submit to the Registrar within whose jurisdiction the whole or any substantial portion of the subject matter of such trust is situate a statement in the prescribed form and accompanied by the prescribed fee, containing the following particulars :—

(*a*) the names and addresses of the trustees and the manager and the mode of succession to the office of trustee,

(*b*) the description of the trust property, both moveable and immovable, sufficient for the identification thereof, and the approximate value thereof,

(*c*) the gross average annual income of such property estimated on the income of the three years preceding the date on which the statement is submitted or of the period which has elapsed since the creation of the trust, whichever period is shorter,

(*d*) the amount of the average annual expenditure in connection with the public trust estimated on the expenditure incurred within the period to which the particulars under clause (*c*) relate,

(*e*) any other particulars as may be prescribed.

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[1] These words were added by Bom. 65 of 1948, s. 2.

[2] The words "The Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

(*2*) A copy of the deed or instrument creating the public trust shall accompany such statement or if no such deed or instrument has been executed or if a copy thereof cannot be obtained such statement shall contain full particulars so far as they are known to the manager of the origin, nature and object of the public trust.

(*3*) Such statement shall be signed by the manager or his agent specially authorised in this behalf.

(*4*) Every person signing the statement shall verify it in the manner prescribed.

Power of Registrar to hold inquiry.

6. (*1*) A Registrar may either on his own motion or upon the petition of a person having an interest in a public trust hold an enquiry in the prescribed manner to ascertain—

(*i*) whether a trust is a public trust,

(*ii*) whether any property is the property of such trust,

(*iii*) whether the whole or any substantial portion of the subject matter of the trust is situate within his jurisdiction,

(*iv*) the names and addresses of the trustees and manager of such trust and the mode of succession to the office of trustee of such trust,

(*v*) the origin, nature and object of such trust,

(*vi*) the amounts of gross average annual income and expenditure of such trust, and

(*vii*) any other such particulars as may be prescribed under sub-section (*1*) of section 5.

(*2*) If it comes to the Registrar's knowledge that a suit has been instituted in any Court in regard to any of the matters mentioned in sub-section (*1*), he shall stay the enquiry so far as it relates to, or is likely to be affected by the Court's findings or orders in regard to such matters, until the suit is finally decided in that Court.

(*3*) The Registrar shall from time to time ascertain whether such suit has been finally decided and after the final decision of the suit, he shall proceed with the enquiry in regard to such matters as may not have been decided in such suit.

(*4*) On completion of the enquiry provided for in sub-sections (*1*) and (*3*), the Registrar shall record his findings as to the matters mentioned in the said sub-sections except such matters as may have been decided in such suit.

V of 1908.

(*5*) For the purpose of this section the Registrar shall have and may exercise the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters :—

(*a*) enforcing the attendance of any person and examining him on oath,

(*b*) compelling the production of documents and material objects,

(*c*) issuing commissions for the examination of witnesses,

(*d*) proof of facts by affidavits.

(*6*) Save as provided in this section, the Registrar shall not determine any question of title between persons claiming adversely to each other or to the trust.

Register of Public Trusts.

7. The Registrar shall, after the submission of a statement under section 5 and an enquiry, if necessary, held under section 6, or merely after an enquiry held under section 6, record entries in such form as may be prescribed in a register called the Register of Public Trusts and shall file the statement, if any.

Amendment of entries in Register of Public Trusts.

8. (*1*) When any change occurs in any of the particulars recorded in the Register of Public Trusts, the manager shall, within three months of the occurrence of such change, report to the Registrar such change in a statement in the prescribed form and accompanied by the prescribed fee. The provisions of sections 5 and 6 shall, so far as may be, apply to such statement.

(*2*) For the purpose of verifying the correctness of the entries in the Register of Public Trusts or ascertaining whether any change has occurred in any of the particulars recorded in such Register, the Registrar may hold an enquiry in the prescribed manner and the provisions of section 6 shall, so far as may be, apply to such inquiry.

(*3*) If the Registrar, after receiving a report under sub-section (*1*) and holding an enquiry, if necessary, under sub-section[1] [(*2*),] or merely after an enquiry held under sub-section (*2*), is satisfied that a change has occurred in any of the particulars recorded in the Register of Public Trusts with regard to a public trust, he shall amend in the prescribed manner the entry or entries affected by such change and shall file the statement furnished under sub-section (*1*) along with the statement, if any, relating to the said trust filed under section 5.

Stay of inquiry or entry in Register.

9. (*1*) No Registrar shall proceed with an enquiry under section 6 or 8, or shall act under section 7, in regard to any public trust particulars of which have been recorded in the Register of Public Trusts by the Registrar of any other district or area.

(*2*) If an enquiry under section 6 or 8 in regard to any public trust is pending before the Registrars of two or more districts or areas, [2][the Provincial Government] shall, on the application of any of the parties having an interest in such trust or of any of such Registrars or on their own motion, determine which of such Registrars shall proceed with the enquiry in regard to such trust; and upon such determination no Registrar other than such Registrar shall proceed with an enquiry under section 6 or 8 or act under section 7 in regard to such trust.

Entries in Register of Public Trusts to be final subject to section 11.

10. Entries made by the Registrar in the Register of Public Trusts in accordance with the provisions of sections 6 and 8 shall, subject to the provisions of section 11, be final for the purposes of this Act.

Amendment of Register by order of Court.

11. A Civil Court of competent jurisdiction deciding any question relating to any registered public trust shall communicate its decision to the Registrar and the Registrar shall make entries or amendments of entries in the Register of Public Trusts relating to the said trust in accordance with its decision.

Maintenance of accounts and their audit.

12. (*1*) Every manager of a public trust in respect of which an entry has been recorded in the Register of Public Trusts under section 6 shall keep regular accounts of all moveable and immovable property, except such articles as are of a perishable nature, received, and of all encumbrances created on the trust

[1] The figure "2" was substituted for the figure "1" by Bom. 24 of 1936, s. 2, Schedule.
[2] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

property and of all payments and alienations made, on behalf of the public trust of which he is the manager. Such accounts shall be kept in such form and shall contain such particulars as may be prescribed.

(*2*) The accounts shall be balanced each year on the thirty-first day of March, or such other day, as may be fixed by the Registrar in any particular case, and shall be examined and audited annually in such manner and by a person who is the holder of a certificate granted under section 144 of the Indian Companies Act, 1913, or is a member of any institution or association the members of which have been declared under that section to be entitled to act as auditors of companies throughout British India or by such persons as may be prescribed.

VII of 1913.

(*3*) Every auditor acting under sub-section (*2*) shall have access to the accounts and to all books, vouchers, other documents and records in the possession or under the control of the manager.

(*4*) Within six months after the thirty-first day of March, or such other day, as may be fixed by the Registrar in any particular case, of the year for which the accounts are balanced, every manager shall prepare and furnish to the Registrar, a full and true statement of the accounts, in such form and containing such particulars as may be prescribed together with the audit note, if any, relating thereto :

Provided that the Registrar may, if he is satisfied that there is any sufficient cause for so doing, extend the time for the furnishing of any statement of accounts and audit note under this section.

Exception.—Nothing in this section shall apply—

(*1*) to any public trust

XX of 1863.

(*a*) which is governed by the [1]Religious Endowments Act, 1863,

V of 1908.

(*b*) in respect of which a scheme has been settled under section 92, Civil Procedure Code, 1908, or

(*2*) to any trust property which is vested in the Treasurer of Charitable Endowments, the Administrator-General or the Official Trustee.

Inspection and grant of copies.

13. Subject to such conditions and on payment of such fee, as may be prescribed, the Registrar shall on application by—

(*a*) any person who appears to him to have an interest in any entry or portion thereof in the Register of Public Trusts or any statement, notice, intimation, account, audit note or any other document filed under this Act, or

(*b*) any other person permitted by the Registrar in this behalf—

(*i*) allow such person inspection of the entries in such Register or of such document, or

(*ii*) furnish such person with copies certified under his hand, of any entry or portion thereof in such Register or of any of such documents.

Annual contribution from public trusts.

14. Every public trust shall, for the purpose of meeting the charges for and expenses incidental to the registration of public trusts, the maintenance of the registers of such trusts and generally carrying into effect the provisions of this Act, be liable to pay to the Public Trusts Administration Fund of the district or area concerned, annually such contribution, on such date and in such manner, as may be prescribed :

[1] *See* Central Acts.

Provided that the contributions prescribed under this section shall be fixed at rates in proportion to the gross income of the public trust but in accordance with a progressively diminishing scale.

Explanation.—Progressively diminishing scale shall, for the purposes of this section, mean a scale of rates which shall diminish in proportion to the increase in the income of any public trust.

Public Trusts Administration Fund

15. For each district or area for which a Registrar is appointed under section 4 there shall be created a fund to be called the Public Trusts Administration Fund of the district or area concerned, and there shall be placed to the credit thereof the following sums, in so far as they arise in such district or area, namely :—

(*a*) any fees which may be levied under section 5, 8 or 13,

(*b*) contributions under section 14,

(*c*) any sums received by the Public Trusts Administration Fund from private sources,

(*d*) any sums allotted by [1][any Government] or by any local authority to the Public Trusts Administration Fund.

Explanation.—For the purpose of this section [2][the Greater Bombay] shall be deemed a district.

Application of Public Trusts Administration Fund.

16. The Public Trusts Administration Fund of a district or any area as created under section 15 shall, subject to the provisions of this Act, be under the control and management of the Registrar and shall be applicable to the payment of charges for and expenses incidental to the registration of public trusts, the maintenance of the registers of such trusts and generally carrying into effect the provisions of this Act.

Special audit.

17. It shall be competent to the Registrar, at any time, for reasons to be recorded in writing, to order a special audit of the accounts of a public trust by such person as may be prescribed and to order the cost of such audit to be paid by the trustee from the income of the property of the public trust or out of the Public Trusts Administration Fund.

Publication of list of public trusts.

18. Every Registrar shall publish annually under his signature, in the [3][*Official Gazette*] and [4][if the Provincial Government so directs] in a newspaper published in the principal vernacular of, and circulating in, the district or area, a list of public trusts and a statement of the sums standing to the credit of the Public Trusts Administration Fund, in such form and on such date as [5][the Provincial Government] may prescribe.

Penalty for failure to furnish or for furnishing false statements under section 5, 6 or 8.

19. If any manager fails or neglects to submit a statement to the Registrar as required under section 5, 6 or 8 or submits statement under either of these sections which he knows or has reason to believe to be false in any material particular, such manager shall on conviction be punishable with fine not exceeding Rs. 500.

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[1] The words "any Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] These words were substituted for the original by Bom. 17 of 1945, read with Bom. 52 of 1947, s. 2, proviso.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", by the Adaptation of Indian Laws Order in Council.

[4] These words were inserted by Bom. 10 of 1944, s. 3, read with Bom. 25 of 1948, s. 3.

[5] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

Penalty for failure to furnish statement of accounts or furnishing false statements under section 12.

20. If any manager fails or neglects to keep accounts or to furnish a statement of accounts under section 12 or furnishes a statement which he knows or has reason to believe to be false in any material particular, such manager shall on conviction be punishable with fine not exceeding Rs. 200.

Penalty for failure to comply with the order of Registrar.

21. If any person fails to comply with any order issued by the Registrar under or in pursuance of the provisions of this Act, such person shall on conviction be punishable with fine which may extend to Rs. 100.

Penalty for continuing offence and power of Magistrate to direct compliance with the provisions of the Act.

22. Any Court may, in passing an order of conviction and sentence for any of the offences under section 19, 20 or 21, specify a period within which the person convicted shall comply with the provisions of this Act which may be found to have been contravened by him and may also prescribe a daily fine not exceeding Rs. 50 for every day for the period during which the default continues after the expiry of the period so specified :

Provided that if the person failing to comply with any direction issued by the Court satisfies the Court that there was good reason for his failare to do so and applies for extension of the period specified under this section, the Court may if it thinks fit, extend the period and may remit the whole or any part of the fine paid or due.

Cognizance of offences.

23. (*1*) No prosecution under this Act shall be instituted except by or with the previous sanction of the Registrar given in the prescribed manner within whose jurisdiction the whole or a substantial portion of the subject matter of the public trust in respect of which the offence is alleged to have been committed is situate.

(*2*) No Court inferior to that of a Presidency Magistrate or of a Magistrate of First Class shall try an offence under this Act.

Registrars to be public servants.

XLV of 1860.

24. Every Registrar appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Prosecution of persons acting in good faith.

25. No suit or prosecution or other proceedings shall be instituted against any person for anything which is in good faith done or intended to be done under this Act.

Recovery of sums due under this Act.

26. All sums due under this Act shall be recoverable as arrears of land revenue.

Power of Provincial Government to make rules.

27. (*1*) [1][The Provincial Government] may make rules for the purpose of carrying in to effect the provisions of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing provisions, such rules may be made for all or any of the following purposes, namely :—

(*a*) Prescribing the form in which a statement shall be furnished to the Registrar and the fee payable along with such statement under section 5 (*1*).

[1] The words "The Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

(*b*) Prescribing the particulars to be included in the statement to be furnished to the Registrar under section 5 (*1*), clause (*e*).

(*c*) Prescribing the manner in which the statement furnished to the Registrar shall be verified under section 5 (*4*).

(*d*) Prescribing the manner in which the Registrar shall make an inquiry under sections 6 and 8.

(*e*) Prescribing the form of Register of Public Trusts to be kept under section 7 and the manner in which entries recorded therein shall be amended under section 8 (*3*).

(*f*) Prescribing the form of the statement reporting a change and the fee payable along with such statement under section 8.

(*g*) Prescribing the form and particulars of accounts to be kept in respect of a public trust under section 12 (*1*).

(*h*) Prescribing the manner in which and the persons by whom the accounts of public trusts shall be audited under sections 12 (*2*) and 17.

(*i*) Prescribing the form and particulars of accounts to be furnished to the Registrar under section 12 (*4*).

(*j*) Prescribing the fee payable for the inspection of the Register of Public Trusts under section 13.

(*k*) Prescribing the conditions under which inspection of statements, notices, intimations, accounts and audit notes shall be permitted and the fees payable for such inspection under section 13.

(*l*) Prescribing the fee payable for obtaining certified copies of entries in the Register of Public Trusts and of documents filed with the Registrar under section 13.

(*m*) Prescribing the amount of contribution payable by a public trust and the date and the manner of such payment under section 14.

(*n*) Prescribing the objects in addition to those specified in the said section, to which the Public Trusts Administration Fund shall be applied under section 16.

(*o*) Prescribing the manner in which the Registrar may give sanction under section 23.

(*p*) Any other matter not specifically provided for in this Act, but which in the opinion of [1][the Provincial Government] is necessary for carrying into effect the provisions of this Act:

Provided that the rules made under clauses (*a*), (*f*), (*j*) and (*m*) shall provide for such adjustment from time to time of the rates of fees payable under sections 5, 8 and 13 and the contributions payable under section 14 in respect of the public trusts in any district or area as not ordinarily to leave any surplus in the Public Trusts Administration Fund of the said district or area at the end of any year in excess of the amount sufficient in the opinion of [1][the Provincial Government] for payment of the charges and expenses referred to in section 16.

[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

(*3*) The rules made under this section shall be subject to the condition of previous publication in the [1][*Official Gazette*].

(*4*) Rules made under this section shall be laid [2][before each of the Chambers of the Provincial Legislature] at the session [3][thereof] next following and shall be liable to be modified or rescinded by a statutory motion [4][carried in both the Chambers] and such rules shall after notification in the [5][*Official Gazette*] be deemed to have been modified or rescinded accordingly:

Provided that when, in the opinion of [6][the Provincial Government], such modification or rescission is likely to defeat or frustrate any of the purposes of this dAct, [6][the Provincial Government] may, by notification in the [1][*Official Gazette*] reclare that the modification or rescission shall have no effect and thereupon the, ules shall remain in force as if they had not been modified or rescinded.

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[1] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[2] The words "before each of the Chambers of the Provincial Legislature" were substituted for the words "upon the table of the Bombay Legislative Council", *ibid.*

[3] The word "thereof" was substituted for the words "of the said Council", *ibid.*

[4] The words "carried in both the Chambers" were substituted for the words "of the said Council", *ibid.*

[5] The words "*Official Gazette*" were substituted for the words "*Local Official Gazette*", *ibid.*.

[6] The words "the Provincial Government" were substituted for the words "Government", *ibid.*

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